

Atty Dkt. No.: 10981377-4
USSN: 10/020,693

REMARKS

In view of the following remarks, the Examiner is requested to allow claims 37-43, 46, 47 and 49-71, the only claims pending and under examination in this application.

As an initial matter, the Applicants would like to thank the Examiner for the acknowledgment that Claims 51 and 70 would be allowable if rewritten in independent form.

Claim Rejections - 35 U.S.C. § 102

Claims 37-43, 46, 47, 49, 50, 52, 53, 56-58, 61-68, 70 and 71 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Takauchi *et al.* (USPN 5,453,333).

An element of the rejected claims is a microvalve that includes a phase reversible material stably associated with a high surface area component. The Applicants contend that Takauchi does not teach a phase reversible material that is stably associated with a high surface area component. Takauchi does not teach a stable association between the phase reversible material and a high surface area component because Takauchi teaches that the second polymer detaches from the first polymer and "flows" into the pores of the membrane and thereby closes the pores of the membrane.

The Office states that the Applicants have not set forth a special definition for the term "stable association." The Office then asserts that the stable association as claimed by the Applicants can be impermanent and temporary. However, the Office is defining the term "stable" in a way that is contrary to the plain and ordinary meaning of the term.

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According to the M.P.E.P. §2111.01, the words of a claim must be given their plain meaning unless the Applicants have provided a clear definition in the specification. Ordinary, simple English words whose meaning are clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say.

The American-Heritage Dictionary sets forth the following definition:

“sta·ble 1 P Pronunciation Key (st b l) adj. sta·bler, sta·blest a.
Resistant to change of position or condition; not easily moved or disturbed: a house built on stable ground; a stable platform.”

In view of the common and ordinary meaning of the term “stable” as set forth and defined above, the association between the first and second polymer disclosed in Takauchi is not “stable” because once a certain temperature is reached (i.e., the melting point of the second polymer), the second polymer melts, dissociates from the first polymer (i.e., the high surface area component) and flows into the pore of the membrane. Therefore, because the second polymer melts, dissociates from the first polymer and flows, the association between the first and second polymers is not “resistant to change of position or condition.” Hence, the association between the first and second polymer, as set forth in Takauchi, cannot be considered a “stable” association as that term is commonly understood and used.

Accordingly, because the second polymer is designed to melt, dissociate and flow into the pores of the membrane, Takauchi does not teach a microvalve that includes a phase reversible material stably associated with a high surface area component. To interpret the association between the first and second polymers disclosed in Takauchi as being “stable” is to define the term “stable” in a way that is contrary to its plain and ordinary meaning, which is prohibited by M.P.E.P. §2111.01.

In view of the above, Takauchi does not anticipate Claims 37-43, 46, 47, 49, 50, 52, 53, 56-58, 61-68, 70 and 71 because Takauchi does not teach every element of the claimed invention; namely, a microvalve that includes a phase reversible

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material stably associated with a high surface area component. Therefore, the Applicants respectfully request the 35 U.S.C. § 102(b) rejection be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 54, 55, 59 and 60 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takauchi *et al.* as applied to claims 37-43, 46, 47, 49, 50, 52, 53, 56-58, 61-68, 70, and 71, and further in view of Hooper *et al.* (USPN 5,569,364).

Claims 54 and 55 are dependent on Claim 37 and Claims 59 and 60 are dependent on Claim 56. As reviewed above, Takauchi is deficient in at least that it fails to disclose a phase reversible material that is stably associated with a high surface area component. As Hooper has been cited solely for its disclosure of poly(N-isopropylacrylamide) as the second polymer, Hooper fails to remedy the deficiencies in Takauchi's teaching.

Accordingly, because the combination of the Takauchi in view of Hooper fails to teach or suggest all the elements of the claimed invention, the combined teaching of these references fails to make Claims 54-55 and 59-60 obvious. The Applicants, therefore, respectfully request that the 35 U.S.C. § 103(a) rejection be withdrawn.

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CONCLUSION

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone Bret Field at (650) 833-7770.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078, order number 10981377-4.

Respectfully submitted,

Date: 2.20.06

By: 

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